4 15

Metropolitan Sewers.

Opinion of Counsel as to enforcing Frontage Charges due under former Commissions.

Mr. Henderson will please advise the Metropolitan Commissioners of Sewers, if their right to order payment for arched or new sewers, as conferred by the Surrey and Kent Act, remains—if it does remain, must the Commissioners take the money by twenty annual instalments or how?

And Mr. Henderson will please point out the steps which will be necessary and prepare the forms.

And generally as to the right of the Commissioners in other districts with reference to frontage, and the course to be pursued. Sec. 10 & 11 Vic. c. 70. Sec. 7.

Opinion.

The New Act does not specifically provide for the case described—the passage cited from the 46th Section relates only to houses to be built or rebuilt. The clauses as to Special and Improvement Rates appear to relate only to prospective expenses. The Bye-Laws intended by the 123rd Section are plainly general regulations, not particular orders made in exceptional cases. Secs. 44, 81, 82.

But I think, that in all points on which the contrary does not appear, the New Act contemplates the continuance of all liabilities existing, and the fulfilment of all legitimate sewers purposes *in fieri* at the time when the New Act came into operation. At that time, the Surrey and Kent Commissioners had the right to charge, and occupiers of adjoining land were liable to be charged, in respect of the expenses of the arching and making Sewers, &c. then made and arched respectively. The right so acquired and the liability so created are, I apprehend, preserved by the provisions in the 142nd Section of the New Act, and capable of being enforced by the Metropolitan Commissioners, they being for all such purposes substituted in the place of the old Commissioners.—(Sec. 8, see also Sec. 2.) 10 & 11 Vic. c. 71. Secs. 3 and 4.

The purpose should, I think, be carried into effect by an Order of the Court reciting the special circumstances, and charging the occupiers as directed by the 3rd and 4th clauses of the Act 10 and 11 Victoria, c. 117, applicable to the cases respectively. The provisions of the 9th Section as to payment by instalments remain, I think, obligatory. Before settling the forms I should wish to see those which were used under the old Act.

16

As to districts which were governed by other local Acts, I should wish to see these Acts before advising in respect of arching sewerage, &c. executed and houses built before the new Act. For such work done, and in respect of houses built or rebuilt after the new Act, it appears to make distinct provision.

(Signed) J. HENDERSON.

P.S.—With respect to the Westminster and Middlesex Act, 10 & 11 Victoria (to which I have now referred) I think that orders MADE by the Commissioners of that Act under the 7th Section are still enforceable by the new Commissioners as they would have been if the new Act had not existed. I observe that the clause is silent as to instalments; and, I apprehend, that the sum contributable towards expenses of original construction is exigible only in one sum.

J. H.

Printed at the Court House, 1, Greek Street, Soho:—*By T. Ballard.*